

FEDERAL DISABILITY BENEFITS:

A KEY TO CURBING RECIDIVISM AMONG

PERSONS WITH SEVERE MENTAL ILLNESSES

Recommendations of the SSI/SSDI Work Group

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Executive Summary

The need to improve California's response to offenders with a serious mental illness has received increasing attention from state policymakers over the past few years. Spurred in large part by the public safety and economic implications of maintaining the status quo, the Legislature established and funded an unprecedented initiative – the Mentally Ill Offender Crime Reduction Grant (MIOCRG) program – to identify the most effective interventions for reducing recidivism among this population. In addition to providing community-based treatment and supervision to persons with schizophrenia, bipolar disorder and other serious mental illnesses upon their release from jail, this program requires the 26 participating counties to consider strategies for helping these individuals secure a stable source of income and a safe and decent residence.

Federal entitlement programs – Supplemental Security Income (SSI), Social Security Disability Income (SSDI) and Medicaid/Medicare – are often the only source of income support for people who suffer a serious mental illness. Under federal law, however, disability benefits are almost always either suspended or terminated while an individual is in jail. Although mentally ill persons need treatment services, housing, food and other necessities as soon as they are released from jail, the process for reinstating benefits or filing a new claim is not well understood. The process also takes time – and, in many cases, even a short delay in regaining benefits increases the likelihood of destabilization and further contact with law enforcement.

In consultation with concerned legislators and staff, the Board of Corrections' management team directed staff to convene a work group of subject matter experts from around the state to examine this critical issue and develop recommendations on policies and practices that would facilitate the reinstatement of disability benefits upon an inmate's release from jail. The SSI/SSDI Work Group met in Sacramento in late September and developed the following five recommendations, each of which is discussed in more detail in this paper.

- Initiate training for jail managers/staff on various issues related to the disability benefit reinstatement process.
- Encourage the development of working relationships between affected county officials and their local Social Security Administration office(s).
- Develop a process for determining “best practices” across the state and disseminating this information to stakeholders.
- Encourage jail administrators to use a portion of their Inmate Welfare Funds to support case managers and/or an interim assistance program for released inmates.
- Provide MIOCRG funding to all interested counties on a permanent basis.

Studies indicate that an estimated 15 percent of the inmates in California jails are diagnosed with a serious mental illness and that these individuals have a higher rate of recidivism than other offenders. The SSI/SSDI Work Group agrees with nationally recognized experts who assert that most mentally ill offenders stand little chance of breaking the cycle of recidivism without an income. For this reason, the Work Group believes that strategies designed to facilitate the reinstatement of SSI/SSDI benefits should be an important part of California's ongoing commitment to providing the treatment and support needed to curb recidivism among persons with a serious mental illness.

Understanding the Problem

According to a 1999 report by the U.S. Department of Justice, a growing number of jail inmates nationwide suffer from a severe mental illness. California is no exception to this trend. In 1984, for example, persons diagnosed with schizophrenia, bipolar disorder or other mental illnesses comprised less than three percent of the state's jail population. Today, an estimated 15 percent of the 74,000-plus inmates in California jails, or approximately 11,000 persons, are diagnosed with a serious mental illness. Research indicates that the majority of these offenders committed relatively minor offenses such as petty theft, disorderly conduct, assault, trespassing and alcohol or drug-related charges – and, more often than not, their behavior was linked to their illness. Research also shows that mentally ill inmates are more likely than others to be repeat offenders.

Widely recognized experts with the Bazelon Center for Mental Health Law in Washington, D.C. and National GAINS Center in New York maintain that adequate resources – i.e., income to pay for housing, food and other basics – are absolutely critical to curbing recidivism among persons with a serious mental illness. Law enforcement and mental health professionals agree that a lack of income contributes to the cycle of recidivism among mentally ill offenders.

People with disabilities, including a severe mental illness, are eligible for income support through two different entitlement programs administered by the Social Security Administration (SSA) – Supplemental Security Income (SSI) and/or Social Security Disability Income (SSDI). For the purposes of these entitlements, disability is based on an individual's inability to work. People are considered disabled if they are unable to do any kind of work for which they are suited and their disability is expected to last (or has lasted) for at least year or to result in death. SSI is for low-income disabled persons; SSDI is for those who have worked and paid Social Security taxes. Some people with a serious mental illness qualify for both entitlements. In addition, in California and most other states, anyone receiving SSI is automatically covered by Medicaid (called Medi-Cal in California), a federal-state program that covers physician services, general hospital care and, importantly, an array of mental health services for people with severe mental illnesses.

Under federal law, disability benefit payments are nearly always interrupted – either “suspended” or terminated, depending on the type of benefit and length of incarceration – when someone is in jail. When a person is incarcerated for less than 12 consecutive months, for example, SSI payments are suspended but may be reinstated after SSA verifies the individual's release from custody and other eligibility factors, which can take a couple of weeks but sometimes much longer. SSI eligibility is terminated for inmates who have been in jail 12 consecutive months or more. In these situations, the individual must file an entirely new application and resubmit evidence of his/her disability – a process that typically takes several months from start to end and may take up to nine months or longer.

The problem, simply stated, is that even a short delay in regaining disability entitlements upon release from jail increases the likelihood that mentally ill offenders will experience symptoms of their illness and have further contact with law enforcement.

One factor contributing to this problem is that individuals with a serious mental illness often need assistance in applying for or requesting reinstatement of their SSI/SSDI benefits reinstated upon release from jail. Mental health or social service case managers offer this type of assistance, but dedicated staff positions are currently not available in all jails. To its credit, the Legislature has appropriated a total of \$104 million in the past three years to the Mentally Ill Offender Crime Reduction Grant (MIOCRG) program, which now supports the implementation and evaluation of locally developed demonstration projects designed to reduce crime, jail crowding and criminal justice costs associated with mentally ill offenders in 26 counties. Recognizing that these

individuals must have income support if they are to successfully maintain themselves in the community, MIOCRG counties are using grant dollars to fund efforts aimed at helping mentally ill persons secure SSI/SSDI benefits upon release from jail. On a statewide basis, the extent of the need for such assistance is unknown. However, initial data reported by 15 counties administering demonstration projects as part of the MIOCRG program show that over half of the nearly 1,900 participants through December 2000 were receiving SSI or SSDI (mostly SSI) during the 30 days prior to their qualifying arrest and subsequent entry into the program. Several counties have also reported, anecdotally, that the assistance these projects are providing with reinstatement of disability entitlements (\$433 to \$872 a month depending on the individual's living arrangement) has been instrumental in efforts to stabilize clients and keep them from re-offending.

A lack of understanding about federal entitlement policies also contributes to the problem. As outlined in a March 2001 report issued by the Bazelon Center, for example, jail staff may not be aware that the benefit reinstatement process can begin while an inmate is in custody or that the facility has the option of entering into a pre-release agreement with its local Social Security office to streamline the process. In general, these written agreements involve improved communication and cooperation – in essence, a good working relationship – between the jail and local Social Security office (see box below). A formal pre-release agreement is not required, however. For example, the Los Angeles County Sheriff's Department, whose jails house the largest number of mentally ill inmates in the nation, recently initiated a partnership with local SSA offices that includes improved notification procedures, a newly developed document certifying an inmate's period of confinement, and staff training. County officials have expressed optimism that this partnership will expedite reinstatement of benefits upon an inmate's return to the community.

Pre-Release Agreements

The Bazelon Center recommends the use of formal pre-release agreements between correctional institutions and local offices of the Social Security Administration.

Jails agree to:

- Notify SSA of inmates likely to meet SSI criteria who will be released within the next 30 days;
- Provide to SSA current medical evidence and non-medical information that may support the inmate's claim;
- Provide to SSA the anticipated release date and notify SSA if that changes; and
- Notify SSA when the inmate is actually released.

SSA will:

- Train jail staff about SSI rules and work with them to ensure that the application procedures work smoothly;
- Provide a contact person at Social Security to assist jail staff with the pre-release procedure;
- Process reapplications and new applications as quickly as possible; and
- Promptly notify the jail of the decision on the released inmate's eligibility.

Addressing the Problem

The Board of Corrections works in partnership with city and county officials to develop and maintain standards for the construction and operation of local jails and juvenile detention facilities, and for the employment and training of local corrections and probation personnel. The Board also inspects local adult and juvenile detention facilities, disburses training funds, and administers local detention facility construction and crime prevention grant programs, including the Mentally Ill Offender Crime Reduction Grant program.

In light of these responsibilities, the Board's management team welcomed the opportunity to convene a work group for the purpose of developing recommendations on policies and practices that would facilitate the reinstatement of federal disability benefits upon an inmate's release from jail. Comprised of subject matter experts throughout the state (see Appendix A – Roster of Work Group Members), the Work Group met on September 25, 2001 and, after a discussion on various issues related to the problem, developed the following five recommendations.

Recommendation #1: Initiate training for jail managers/staff on various issues related to the disability benefit reinstatement process.

Although recognizing that some jail administrators are keenly aware of the issues surrounding disability benefits, the Work Group felt that many detention facility managers would benefit from training that covered such topics as SSI eligibility criteria, the importance of federal entitlements in promoting the post-custody stabilization of persons with a serious mental illness, the options available to jails in facilitating the benefit reinstatement process, the documentation needed to certify an individual's period of confinement, and inmate release times.

The Work Group indicated that counties should initiate training opportunities by contacting their local Social Security office. SSA staff would provide training to jail staff and, as appropriate or needed, to community-based mental health providers that work with jails in serving mentally ill offenders. The Board of Corrections would provide technical assistance as needed.

In March 2001, the Bazelon Center for Mental Health Law issued a publication that explains federal disability payment programs and provides policy recommendations designed to ensure a successful transition from jail into the community for people with severe mental illnesses. Training of jail staff on federal entitlement policies was among the Center's recommendations.

Recommendation #2: Encourage the development of working relationships between affected county officials and their local SSA office(s).

The Work Group felt that the Sheriff's Department should take the lead in establishing a working relationship with the district manager of the local SSA field office. The group indicated that the county mental health and/or social service directors would also benefit from such a relationship.

Recommendation #3: Develop a process for determining "best practices" across the state and for disseminating this information to stakeholders.

Some counties have implemented policies and/or procedures for helping mentally ill offenders obtain their disability benefits in a timely fashion upon release from jail. However, since federal SSI/SSDI rules give localities considerable flexibility in making changes that can expedite access to benefits for inmates leaving jail, the Work Group felt that stakeholders throughout the state (e.g., sheriffs, mental health directors, welfare directors) would benefit from an assessment of the effectiveness of current county practices.

Recommendation #4: Encourage jail administrators to use a portion of their Inmate Welfare Funds to support case managers and/or an interim assistance program for released inmates.

Penal Code Section 4025 authorizes sheriffs to establish and administer an Inmate Welfare Fund (IWF) with revenues generated from the sale of goods from the county jail store, inmate art and craftwork, and pay telephones used primarily by inmates. Sheriffs have considerable flexibility in the expenditure of these funds (see Appendix B – Penal Code Section 4025).

Based on their understanding of the law, the Work Group maintained that it would be appropriate for jail administrators to expend a portion of IWF money for mental health and/or social service case managers who would be responsible for assisting mentally ill inmates in regaining disability benefits as quickly as possible, and for connecting these individuals – as well as other inmates – with community-based services. Many counties have identified a tremendous need for this type of service. In 1999, for example, 38 of the 44 counties that participated in the MIOCRG planning process cited the need for discharge planning that includes, at a minimum, referrals by case managers to appropriate community-based programs.

The Work Group also recommends that Sheriffs explore the possibility of using the IWF to establish and support an interim assistance program that would provide immediate, temporary financial assistance to inmates who experience a delay in regaining disability benefits upon their release from jail. There is already a system in place for interim assistance from county welfare or mental health departments, which may enter into a contract with the SSA and receive reimbursement for the financial aid once the individual's SSI/SSDI payments resume. The Work Group agreed that IWF funds might be another source of interim assistance through a similar agreement between the Sheriff's department and SSA.

Recommendation #5: Provide MIOCRG funding to all interested counties on a permanent basis.

The MIOCRG program currently supports a total of 30 projects in 26 different counties. These projects are providing an array of enhanced services to seriously mentally ill offenders. Jail-based interventions include early identification and screening procedures, comprehensive mental health assessments, case management, and pre-release planning. Enhanced services in the community include intensive case management and supervision, medication education and management, and assistance in securing housing, vocational training, employment and federal entitlements.

The Work Group believes that these interventions are crucial for persons with a serious mental illness to make a successful transition from jail into the community. For this reason, the group recommends that State funds be appropriated on an ongoing basis to support the continuation of existing MIOCRG projects as well as the expansion of the program to all counties.

APPENDIX A

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APPENDIX B

PENAL CODE SECTION 4025

(a) The sheriff of each county may establish, maintain and operate a store in connection with the county jail and for this purpose may purchase confectionery, tobacco and tobacco users' supplies, postage and writing materials, and toilet articles and supplies and to sell these goods, articles, and supplies for cash to inmates in the jail.

(b) The sale prices of the articles offered for sale at the store shall be fixed by the sheriff. Any profit shall be deposited in an inmate welfare fund to be kept in the treasury of the county.

(c) There shall also be deposited in the inmate welfare fund 10 percent of all gross sales of inmate hobbycraft.

(d) There shall be deposited in the inmate welfare fund any money, refund, rebate, or commission received from a telephone company or pay telephone provider when the money, refund, rebate, or commission is attributable to the use of pay telephones which are primarily used by inmates while incarcerated.

(e) The money and property deposited in the inmate welfare fund shall be expended by the sheriff primarily for the benefit, education, and welfare of the inmates confined within the jail. Any funds that are not needed for the welfare of the inmates may be expended for the maintenance of county jail facilities. Maintenance of county jail facilities may include, but is not limited to, the salary and benefits of personnel used in the programs to benefit the inmates, including, but not limited to, education, drug and alcohol treatment, welfare, library, accounting, and other programs deemed appropriate by the sheriff. An itemized report of these expenditures shall be submitted annually to the board of supervisors.

(f) The operation of a store within any other county adult detention facility which is not under the jurisdiction of the sheriff shall be governed by the provisions of this section, except that the board of supervisors shall designate the proper county official to exercise the duties otherwise allocated in this section to the sheriff.

(g) The operation of a store within any city adult detention facility shall be governed by the provisions of this section, except that city officials shall assume the respective duties otherwise outlined in this section for county officials.

(h) The treasurer may, pursuant to Article 1 (commencing with Section 53600), or Article 2 (commencing with Section 53630), of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, deposit, invest, or reinvest any part of the inmate welfare fund, in excess of that which the treasurer deems necessary for immediate use. The interest or increment accruing on these funds shall be deposited in the inmate welfare fund.

(i) The sheriff may expend money from the inmate welfare fund to provide indigent inmates, prior to release from the county jail or any other adult detention facility under the jurisdiction of the sheriff, with essential clothing and transportation expenses within the county or, at the discretion of the sheriff, transportation to the inmate's county of residence, if the county is within the state or 500 miles from the county of incarceration. This subdivision does not authorize expenditure of money from the inmate welfare fund for the transfer of any inmate to the custody of any other law enforcement official or jurisdiction.